

REMARKS

A. Status of Related Case

The present application is a parent to a continuation-in-part application Ser. No. 10/877,003 filed June 24, 2004 (Attorney Docket No. 13033.12US11). The '003 application is subject to a first Office Action dated September 19, 2006 (Examiner John P. Lacyk, Art Unit 3735). References cited by Examiner Lacyk as a basis for rejection are DE 19920114, U.S. Pat. No. 5,988,171 and U.S. application Publication No. 2001/0050085. All such references have been cited in the present application.

B. Terminal Disclaimer

Without admission of double patenting and solely to expedite prosecution, Applicants submit herewith a terminal disclaimer with respect to U.S. Ser. No. 10/877,003.

C. Cancellation of Non-Elected Claims

Reserving all rights to file divisional or continuation applications, Applicants cancel those claims which have been withdrawn from consideration.

D. Specification Support for Claim Amendments

Mindful of the prohibition against adding new matter through amendment, Applicants present the following table to assist the Examiner in confirming all current claims are fully supported by the specification. Claims not listed in the table are either canceled, amended only grammatically or whose specification support is otherwise apparent.

<u>Claim No.</u>	<u>Amended Text</u>	<u>Specification Support</u>
1 and 10	<ul style="list-style-type: none">• Tissue-engaging end connected to member• Tissue growth inducing material• Tissue-engaging end near base of tongue• Member extending toward jaw bone• anchoring is performed after at least partially securing said tissue-engaging end to said tissue	<ul style="list-style-type: none">• "Elongated member 12" p.6, line 3• P. 6, lines 6 – 7• P. 6, line 12• P. 6, line 9• Claim 2 as originally filed
23 and 25	Suture material	P. 6, line 6
24	Anchoring after initial implantation	P. 6, line 22

E. Claim Objection re: Claim 22

Claim 22 is amended in a manner suggested by the Examiner in paragraph 2 of the Office Action.

F. Rejection of Claim 22 Under 35 U.S.C. § 101

Claim 22 is amended to state the static end “is adapted to be” secured to the jaw bone. With this amendment, an anatomical feature is not part of the claim.

G. Rejections Based In Whole or In Part on US Patent No. 5,988,101 (“Sohn ‘171”)

Sohn ‘171 teaches a tongue suspension system. In one embodiment, an anchor screw is placed in the midline of the jaw (Figs. 9A through 9E) and sutures form a triangular shape with an apex at the suture and with a base of the triangle extending in the tongue near the tongue base and extending in a line perpendicular to an anterior-posterior axis of the tongue. In another embodiment (Figs. 8A and 8B), two anchors are placed on opposite sides of the jaw. Additional embodiments include the tongue suspension in combination with hyoid suspension (Figs. 7A and 7B) or in combination with an electrical stimulation (Fig. 12).

Sohn ‘171 does not show an implant of tissue in-growth inducing material. As most, Sohn ‘171 states fibrosis may occur in the area of the sutures 32 of Sohn ‘171 (Sohn ‘171, col. 6, line 9). Importantly, Sohn ‘171 does not show or suggest a post-healing surgical procedure in which the base of the tongue is drawn toward the jaw after a portion of the implant near the tongue base has healed to create tissue in-growth.

Independent claims 1 and 10 are amended to emphasize the difference with respect to Sohn ‘171.

H. Conclusion

With the foregoing, Applicants submit this application is now in condition for allowance, reconsideration and notice of allowance are solicited.

Respectfully submitted,



Date:

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A handwritten signature in dark ink, appearing to read "T. Conrad", written over a horizontal line.

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